

Serial No. 10/779,875
Amendment dated September 25, 2006
Reply to Office Action of May 25, 2006

Docket No. **K-0611**

REMARKS/ARGUMENTS

Claims 1 and 6-13 are currently pending in this application. Claims 1, 6 and 7 are amended and new claims 8-13 are added. Claims 2-5 are canceled.

Entry of the amended claims is proper under 37 C.F.R. §1.116 since the amendments: (1) place the application in condition for allowance; (2) do not raise any new issues requiring further search and/or consideration; (3) satisfy a requirement of form asserted in the previous Office Action; and/or (4) place the application in better form for appeal if necessary. Entry is thus requested.

Claim 1 stands objected to for informalities. Claim 1 has been amended to insert the word "from" after "different" as suggested by the Examiner. Hence this objection is moot.

Claim 1 stands rejected under 35 USC § 102(b) as being anticipated by JP 2003-031371. Reconsideration is respectfully requested.

The amended pending claims do not contain a limitation which refers to a carbazolyl group. In claim 1, the reference to diphenylamino group has been deleted. Similarly, claims depending on claim 1 do not have reference to a carbazolyl group. The new claims do not have reference to a carbazolyl group, e.g., new independent claim 11 refers to a diphenylamino group but excludes a carbazolyl group.

In view of the foregoing, JP2003-031371 does not disclose each and every element of the present claims, and respectfully request withdrawal of the Section 102 rejection.

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Claims 1, 6 and 7 stand provisionally under 35 USC § 101 as claiming the same invention as that of claims 1 and 7 of copending application 10/779,784. This rejection is respectfully traversed.

In response, applicants point out that the present claims do not require that the hole blocking layer be formed of the same substance as that of the third emission area. A reliable test for double patenting under 35 USC § 101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent. *In re Vogel*, 422 F.2d. 438, 164 USPQ 619 (CCPA 1970). As far as comparing claim 1 of the present application with claim 1 of 10/779,874, it is possible to literally infringe claim 1 of 10/779, 874 without infringing claim 1 of the present application.

In view of the above argument, applicants respectfully request withdrawal of the Section 101 rejection.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

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If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Daniel Y.J. Kim**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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